

REMARKS

Section numbers herein correspond to like section numbers in the Office action.

Double Patenting

There are three provisional double patenting rejection, which will be addressed together below.

3. Claims 1-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 09/296,216.

4. Claims 1-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 08/962,209.

5. Claims 1-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 09/307,544.

Because the final scope of the claims of this application, and those cited copending applications are yet to be finalized, applicant respectfully requests the these provisional double patenting rejections be held in abeyance until such time as claims are otherwise allowed.

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Claim Rejections - 35 USC 103

First Rejection Under 35 USC 103

7. Claims 1, 2, and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,989,673 to Sydansk (hereinafter referred to Sydansk '673) in view of US Patent 4,566,979 to Githens (hereinafter Githens '979). The rejection is respectfully traversed.

The Office action notes that "Sydansk '673 differ from the instantly claimed invention in that Sydansk does not appear to teach a dry mixture of water soluble crosslinkable polymer, crosslinking agent, and reinforcing material."

It is respectfully noted that while Githens '979 appears to teach a dry mixture of a crosslinking compound and a hydratable gelling agent, such a dry mixture does not include a reinforcing agent.

It is further respectfully noted that neither of Sydansk or Githens teaches a reinforcing material in a dry mixture of polymer and crosslinking agent.

Thus, claims 1, 2 and 7 are patentable over the combination of Sydansk and Githens.

Second Rejection Under 35 USC 103

8. Claims 1-4 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,377,760 to Merrill (herein referred to as Merrill '760) in view of Githens '979. The rejection is respectfully traversed.

In response, applicant respectfully notes that Merrill '760 expressly teaches first making of the gel solution followed by addition of the fibers thereto (i.e., the fibers are added to a wet polymer). Specifically, attention is directed to :

the Abstract, "fibers are added to a gelation solution;"

col. 2, lines 42-43, "introducing reinforcing fibers into the gelation solution;"

col. 3, lines 10-12, "incorporation of fibers in a gel by mixing the fibers with the gelation solution;"

col. 5, lines 16-17, "various amounts of the cellulosic and glass fibers were added to the gel;"

col. 5, line 56, "amounts of fiber added to the gel;"

col. 7, lines 7-9, "results further confirm the increased strength produced by adding reinforcing fibers to the gelation solution prior to injection;" and

col. 7, lines 47-48, "fibers are simple to introduce into the gelation solution."

Githens '979 is cited in the Office action as teaching a dry mixture of a crosslinking compound and a hydratable gelling agent. However, in response, applicant respectfully notes that Githens '979 does not teach the a dry mixture of polymer, crosslinking agent, and reinforcing material.

Thus, even if one were to substitute the Githens '979 dry mixture for the gelation solution of Merrill '760, the only teaching in either Merrill '760 or Githens '979 would be to first render the dry mixture a solution by the addition of water, and then to add the reinforcing material to the wet solution.

In contrast, applicant's independent claim 1 requires "a conformance additive comprising a dry mixture of a water soluble cross-linkable polymer, a cross linking agent, and a reinforcing material selected from fibers and comminuted plant material". Thus, independent claim 1 and claims 2-4 and 7 by dependency, are patentable over the combination of distinguish Merrill '760 in view of Githens' 979 at least by requiring "a conformance additive comprising a dry mixture".

Third Rejection Under 35 USC 103

Claims 1, 2 and 5-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,004,553 to House et al (herein referred to as House et al '553) in view of U.S. Patent 3,208,524 to Horner et al (herein referred to as Horner et al '524) and Githens '979. The rejection is respectfully traversed.

In response, applicants independent claim 1 is patentable over the combination of House, Horner and Githens at least by the required "conformance additive comprising a dry mixture of a water soluble cross-linkable polymer, a cross linking agent, and a reinforcing material selected from fibers and comminuted plant material".

House and Horner teach making a solution (i.e., not dry) to which either a reinforcing material/seepage loss additive (see House col. 5, lines 39-41, "compositions of our invention can be prepared by adding the seepage loss reducing agent to the water base or oil base well working fluid") or a bulking agent (see Horner col. 5, lines 43-44, "the bulking agent may be incorporated into the polysaccharide solution") is added.

Githens '979 is cited in the Office action as teaching a dry mixture of a crosslinking compound and a hydratable gelling agent. However, in response, applicant respectfully notes that Githens '979 does not teach the a dry mixture of polymer, crosslinking agent, and reinforcing material.

Thus, even if one were to substitute the Githens '979 dry mixture for the gelation solution of House and/or Horner, the only teaching in any of House, Horner or Githens '979 would be to first render the dry mixture a solution by the addition of water, and then to add the reinforcing material to the wet solution.

Applicant's independent claim 1, and claims 2 and 5-13 by dependency, are patentable over the combination of references by the required "dry mixture". The combination of House, Horner and Githens cannot be said to disclose or teach applicant's claimed invention.

In view of the above arguments, prompt allowance of all pending claims is respectfully requested.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicants' attorney Mark Gilbreth at 713/227-1200.

Respectfully submitted,



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